

AMENDED IN ASSEMBLY MAY 7, 2012

AMENDED IN ASSEMBLY APRIL 19, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1726**

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**Introduced by Assembly Member Allen**

February 16, 2012

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An act to add Section 116064.3 to the Health and Safety Code, relating to swimming pools.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1726, as amended, Allen. Swimming pools: safety.

Existing law provides various construction and safety standards for public swimming pools, as defined. Existing law requires that every person or entity operating or maintaining a public swimming pool do so in a sanitary, healthful, and safe manner, and authorizes the State Department of Public Health to supervise the sanitation, healthfulness, and safety of public swimming pools. Existing law requires county health officers to enforce department regulations and authorizes a county health officer or any department inspector to enter the premises of a public swimming pool and make an examination and investigation to determine the sanitary condition of the swimming pool and to determine violations of building standards. Violation of these provisions is a misdemeanor.

This bill, effective January 1, 2014, would require an owner of a public swimming pool, as defined, to ensure that the public swimming pool is operated by a qualified pool operator, as defined, and to maintain and conspicuously post a current certificate of each qualified pool operator ~~employed by the swimming pool~~. This bill would require

originals or copies of the certificate or documentation of each qualified pool operator ~~employed by the site~~ to be available onsite for inspection by a local enforcing agency.

This bill would require every pool operator, *as defined*, of a public swimming pool to be a qualified pool operator and to take a pool operator training course and examination, as specified, approved by a local enforcing agency. This bill would require a pool operator training course to be registered and approved by a local enforcing agency, and would allow the enforcing agency to charge a registration fee, as specified. By increasing the various duties of local officials, this bill would impose a state-mandated local program.

The bill would require that the public pool operator training course consist of at least 14 hours of instruction covering topics such as water disinfection, water chemistry, operation and maintenance of mechanical systems, health and safety, and facility operations, and include a written examination evaluating subject knowledge. This bill would require training and testing to be conducted by persons knowledgeable in pool operation, safety, and maintenance, and who are approved as qualified pool operators in accordance with this bill's provisions. A violation of these provisions would be punishable as a misdemeanor. By expanding the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Public Pool Health and Safety Act of 2012.
- 3 SEC. 2. The Legislature finds and declares all of the following:

1 (a) Swimming pools, wading pools, water attractions, and  
2 interactive fountains are major sources of recreation in California.

3 (b) There are approximately 65,000 public pools in the state  
4 that serve millions of residents and visitors.

5 (c) Every year thousands of swimmers become sick from  
6 contaminated water, are injured from improperly maintained pools,  
7 or drown because of inadequate or unenforced pool safety  
8 measures.

9 (d) Lapses in operation and maintenance are critical contributors  
10 to disease outbreaks and injuries. Current regulations do not cover  
11 proper cleanup of fecal matter, vomit, or blood to prevent pool  
12 contamination.

13 (e) Between 1998 and 2007, a 10-year timeframe, 186 chemical  
14 accidents or spills because of improper handling occurred at public  
15 pools in the state.

16 (f) California regulates public swimming pools via a series of  
17 regulations, some of which have not been updated since 1986.

18 (g) California regulations do not establish operator training  
19 requirements, and do not address current health and safety  
20 standards to deal with diseases, such as salmonella, E. coli, and  
21 other pathogens, that cause illness and injuries at public pools.

22 (h) The federal Centers for Disease Control and Prevention  
23 (CDC), along with the National Swimming Pool Foundation  
24 (NSPF), National Environmental Health Association (NEHA), the  
25 California Spa and Pool Industry Education Council (Cal-SPEC),  
26 state and local health departments, industry, academia, and pool  
27 operators have designed modules that address all these issues.  
28 These groups joined with the CDC to design the Model Aquatic  
29 Health Code (MAHC) which addresses these gaps in the regulatory  
30 structure.

31 (i) Studies by CDC, NSPF, NEHA, Cal-SPEC, and other  
32 organizations have demonstrated that, in addition to significantly  
33 reducing the incidence of illness and injury, properly operated and  
34 maintained public pools also have significantly fewer code  
35 violations during routine inspections and save the owner and  
36 operators time and money by reducing mandatory closures,  
37 unscheduled maintenance and repairs, and user liability.

38 (j) It is the intent of the Legislature to adopt an aquatic health  
39 code in California to protect the public from adverse health  
40 conditions at public pools, that operation standards and

1 requirements are applied uniformly across the state, and that pool  
2 owners and operators are afforded an opportunity to reduce their  
3 exposure to user injury, illness, and liability.

4 SEC. 3. Section 116064.3 is added to the Health and Safety  
5 Code, to read:

6 116064.3. (a) For the purposes of this section:

7 (1) “Bather” means a person using a pool and adjoining deck  
8 areas for the purpose of water sports such as diving, swimming,  
9 wading, or related activities.

10 (2) “Local enforcing agency” means the local health agency of  
11 the county, city, or city and county. In jurisdictions where multiple  
12 entities may be responsible for health and environmental issues,  
13 the jurisdiction shall specify which entity will be the local enforcing  
14 agency for purposes of this section.

15 (3) “Pool” means a constructed or prefabricated artificial basin,  
16 chamber, or tank intended to be used primarily for bathers, and  
17 not for cleaning of the body or for individual therapeutic use.

18 (4) “*Pool operator*” means a person who is responsible for the  
19 water disinfection, water chemistry, operation and maintenance  
20 of mechanical systems, health and safety, and operations of a  
21 public swimming pool.

22 ~~(4)~~

23 (5) “Private pool” means any constructed pool, permanent or  
24 portable, which is intended for noncommercial and nonpublic use  
25 as a swimming pool, *including a pool in residential property*.

26 ~~(5)~~

27 (6) “Public swimming pool” means a pool that complies with  
28 all of the following characteristics:

29 (A) It is not a private pool.

30 (B) It is operated by a public entity or ~~that is a place of public~~  
31 ~~accommodation to which the federal Americans with Disabilities~~  
32 ~~Act applies.~~

33 (C) It is not a pool that is located within a public lodging  
34 providing no more than 15 rooms for public accommodation.

35 ~~(6)~~

36 (7) “Qualified pool operator” means a person who has  
37 successfully completed a pool operator training course pursuant  
38 to subdivision (e).

39 (b) An owner of a public swimming pool shall do all of the  
40 following:

1 (1) Ensure that the pool is operated by a qualified pool operator.  
2 ~~The owner shall replace a vacancy in the qualified pool operator~~  
3 ~~position within 90 days of the occurrence of the vacancy if the~~  
4 ~~owner employs only one qualified pool operator. If at any time a~~  
5 ~~public swimming pool owner does not have a qualified pool~~  
6 ~~operator, the public swimming pool owner shall, within 90 days,~~  
7 ~~ensure that the public swimming pool is operated by a qualified~~  
8 ~~pool operator.~~

9 (2) Maintain and conspicuously post a current certificate of a  
10 ~~qualified pool operator employed at the public swimming pool~~  
11 ~~pool's qualified pool operator for the duration of that the qualified~~  
12 ~~pool operator's employment operator is responsible for the pool.~~

13 (3) Have originals or copies of a qualified pool operator  
14 certificate or documentation issued pursuant to paragraph (2) of  
15 subdivision (e) for each qualified pool operator ~~employed by the~~  
16 ~~site of the public swimming pool~~ available onsite for inspection by  
17 the local enforcing agency.

18 (c) Every pool operator of a public swimming pool shall be a  
19 qualified pool operator.

20 (d) (1) A pool operator training course shall be registered with,  
21 and approved by, the local enforcing agency.

22 (2) The local enforcing agency may charge a registration fee  
23 which shall not exceed the costs necessary to administer the  
24 program.

25 (e) (1) The pool operator training course shall provide all of  
26 the following:

27 (A) At least 14 hours of instruction, including, but not limited  
28 to, information to provide the operator with a working knowledge  
29 of the following elements:

30 (i) At least two hours covering water disinfection, including  
31 common disinfectants, contact time (CT) values, bromine, chlorine,  
32 cyanuric acid, breakpoint or superchlorination, hyperchlorination,  
33 combined chlorine, secondary disinfection, and supplemental  
34 disinfection.

35 (ii) At least two hours covering water chemistry, including  
36 source water, water balance, saturation index, water clarity, pH,  
37 total alkalinity, calcium hardness, water temperature, and total  
38 dissolved solids.

39 (iii) At least six hours covering operation and maintenance of  
40 mechanical systems, including monitoring, calibration, and

1 maintenance of automatic controllers, descriptions of common  
2 types of liquid, dry chemical, and gas mechanical feeder systems,  
3 calculations of circulation, main drains, gutters and surface  
4 skimmers, mechanical system balance, circulation pump and motor,  
5 valves, return inlets, filtration, filter backwashing, and cleaning.

6 (iv) At least two hours covering health and safety, including  
7 recreational water illness (RWI), RWI prevention, risk  
8 management, recordkeeping, chemical safety, entrapment  
9 prevention, electrical safety, rescue equipment, injury prevention,  
10 drowning prevention, barriers, signage and depth markers, facility  
11 sanitation, and emergency response.

12 (v) At least two hours covering operations including applicable  
13 regulations, aquatic facility types, daily or routine operations,  
14 preventive maintenance, weatherizing, aquatic facility renovation  
15 and design, heating, and air circulation.

16 (B) Administration of a written examination evaluating the pool  
17 operator's subject knowledge. The examination shall be approved  
18 by the local enforcing agency and given by the training course  
19 provider.

20 (C) A description of the following procedures used to ensure  
21 validity in evaluating subject knowledge:

22 (i) Identity security procedures.

23 (ii) Proctoring procedures.

24 (iii) Testing procedures.

25 (2) Upon successful completion of a pool operator training  
26 course and examination, as determined by the course provider, a  
27 pool operator shall receive documentation indicating the successful  
28 completion of the pool operator training course and examination.

29 (3) Training and testing shall be conducted by a person or  
30 persons who are knowledgeable in pool operation, safety, and  
31 maintenance and who are approved as a qualified pool operator in  
32 accordance with the provisions of this section.

33 (f) A current and valid pool operator training certificate  
34 approved by a local or state agency and consistent with the  
35 provisions of this section shall be accepted by all other local and  
36 state agencies.

37 (g) (1) Except as provided in paragraph (2), the provisions of  
38 this section shall take effect January 1, 2014.

1 (2) The provisions of this section shall not apply to a city or  
2 county that has an ordinance requiring public pool operator training  
3 effective on or before January 1, 2012.

4 SEC. 4. No reimbursement is required by this act pursuant to  
5 Section 6 of Article XIII B of the California Constitution for certain  
6 costs that may be incurred by a local agency or school district  
7 because, in that regard, this act creates a new crime or infraction,  
8 eliminates a crime or infraction, or changes the penalty for a crime  
9 or infraction, within the meaning of Section 17556 of the  
10 Government Code, or changes the definition of a crime within the  
11 meaning of Section 6 of Article XIII B of the California  
12 Constitution.

13 However, if the Commission on State Mandates determines that  
14 this act contains other costs mandated by the state, reimbursement  
15 to local agencies and school districts for those costs shall be made  
16 pursuant to Part 7 (commencing with Section 17500) of Division  
17 4 of Title 2 of the Government Code.